


FILED
HARRISBURG, PA

FEB 28 2003

MARY E. D'ANDREA, CLERK
Per. 

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEITH I. SCHORR and SUSAN
SCHORR, in their own right and
as personal representatives of the
Estate of RYAN K. SCHORR,
Plaintiffs,

v.

WEST SHORE REGIONAL POLICE
DEPARTMENT, HOWARD
DOUGHERTY, CUMBERLAND
COUNTY, and HOLY SPIRIT
HOSPITAL,

Defendants.

JURY TRIAL DEMANDED

NO.: 1:CV-01-0930

HONORABLE YVETTE KANE

EXHIBITS IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT
PURSUANT TO FED. R. CIV. P. 56 OF DEFENDANTS
HOLY SPIRIT HOSPITAL AND CUMBERLAND COUNTY

Respectfully submitted,
METTE, EVANS & WOODSIDE

By:



JOHN F. YANINEK, ESQUIRE
Supreme Court I.D. #55741

3401 North Front Street

P. O. Box 5950

Harrisburg, PA 17110-0950

(717) 232-5000

Attorneys for Defendants Holy Spirit Hospital
and Cumberland County

Date: February 28, 2003

INDEX TO EXHIBITS

Motions for Summary Judgment of Defendants
Holy Spirit Hospital and Cumberland County

- A. Written Statement of David Spurrier, M.D.
 - B. Transcript of Deposition of Ira Somerson
 - C. Transcript of Deposition of Carol Joerger, R.N.
 - D. Transcript of Deposition of Cory Graby
 - E. Transcript of Deposition of Candice Highfield
 - F. Transcript of Deposition of Steve Bucciferro
 - G. Transcript of Deposition of Mercedes Briscese
 - H. Transcript of Deposition of Charles Sterling
-

11-18-00

1515 HOURS.

STATEMENT OF DAVID S. SPURRIER, MD
CONCERNING RYAN SCHORR.

I SAW RYAN BECAUSE OF A 302 COMMITMENT. THIS WAS FILLED OUT BY HIS ROOMMATE BECAUSE OF VIOLENT BEHAVIOR. I WAS TOLD HE HAS BEEN BROUGHT BY POLICE AND HAS BEEN AGGITATED BUT NOT VIOLENT IN THE ED. HE WAS IN ROOM 17 BEHIND A LOCKED DOOR. I WENT IN TO EXAMINE HIM WITH THE SECURITY GUARD OUTSIDE THE ROOM.

THE PATIENT WAS SITTING QUIETLY ON THE SIDE OF THE BED. HE WAS TALKING LOUDLY & RAPIDLY. HE SAID HE WOULD NOT TALK TO ME. I ASKED IF I COULD EXAMINE HIM & HE AGREED. I EXAMINED HIS HEART AND LUNGS AND HE THEN SAID THAT WAS ALL HE WOULD LET ME DO.

HE REPEATEDLY ASKED ME TO GET HIS LIMOSINE FROM THE HILTON WITH HIS BODY GUARD. HE SAID HE WOULD NOT TALK TO ME OR TAKE MEDICATION UNLESS HIS BODY GUARD OR LAWYER WAS PRESENT. I TOLD HIM HE NEEDED MEDICATION. HE SAID HE WOULD REFUSE TO TAKE IT. I TOLD HIM THAT I WOULD HOLD OFF AS LONG AS HE WAS QUIET & COOPERATIVE BUT IF HE WAS NOT I WOULD GIVE HIM A SHOT EVEN IF WE HAD TO HOLD HIM DOWN. I THEN LEFT THE ROOM AND CLOSED THE DOOR.

I FILLED OUT THE 302 COMMITMENT SINCE THE PATIENT WAS CLEARLY PSYCHOTIC AND HALLUCINATING.

I DISCUSSED THE SITUATION WITH THE CRISIS WORKER. I TOLD HER I WOULD HAVE THE PATIENT
... time she ID'd a woman.

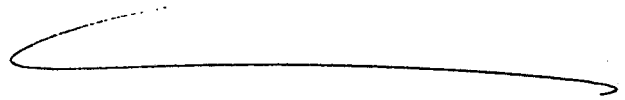
She FIRST WANTED the PATIENT His Rights
I went into Another room to SEE A PATIENT
I then heard Someone SHOUT that the patient
HAD Run off. I quickly went outside, &
the PATIENT WAS NOWHERE to be seen.

THE POLICE WERE NOTIFIED.

Later I heard the patient WAS AT
Home AND would be brought back by the
Police.

I then heard from the MEDICS that
2 police officers had been SHOT AND A person
WAS DEAD — he believed AT the ~~home~~ ADDRESS
where the 302 commitment had come from

David J. Spinner 



(T)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

- - -

KEITH I. SCHORR and : JURY TRIAL DEMANDED
SUSAN SCHORR :

vs. :

WEST SHORE REGIONAL :
POLICE DEPARTMENT, HOWARD :
DOUGHERTY, CUMBERLAND :
COUNTY, ROBERT GORIL and :
HOLY SPIRIT HOSPITAL : NO. 1:CV-01-0930

- - -

Lafayette Hill, Pennsylvania
Wednesday, December 4, 2002

- - -

Deposition of IRA S. SOMERSON, CPP,
taken pursuant to notice, at 104 Hollyhock
Drive, on the above date, beginning at
approximately 9:55 a.m., before Michele L.
Murphy, RPR-Notary Public.

- - -

V A R A L L O Incorporated
Litigation Support Services
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1
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12 Philadelphia, PA 1910913 Counsel for Defendant West Shore Regional
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17 3401 North Front Street
18 P.O. Box 5950
19 Harrisburg, PA 17110-095020 Counsel for Defendants Cumberland County
21 and Holy Spirit Hospital

22 - - -

23 (It was stipulated by and among counsel
24 that signing, sealing, filing and certification
25 be waived; and that all objections, except as to
the form of the question, are reserved until the
time of trial.)

- - -

(INDEX at end of transcript)



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1
2 (Exhibit Somerson-1 marked for
3 identification.)

4 ... IRA S. SOMERSON, CPP, after having
5 been duly sworn, was examined and testified as
6 follows:

7 BY MR. YANINEK:

8 Q. Mr. Somerson, I've introduced myself before.
9 My name is John Yaninek. I represent the defendants
10 Holy Spirit Hospital and Cumberland County. I
11 noticed your expert deposition this morning.

12 I provided to plaintiffs' counsel and
13 you a Notice of Expert Deposition, which I have had
14 previously marked as Somerson Exhibit-1. I'm
15 handing it to you.

16 Have you seen that document --

17 A. Yes.

18 Q. -- or a copy of the document before?

19 A. Yes, I have.

20 Q. The document requests you bring certain items
21 with you to this deposition this morning. Did you
22 review the document and bring the items that I
23 requested?

24 A. Yes.

25 Q. Just so I know what's there, can you tell me



VARALLO Incorporated

1 Ira S. Somerson, CPP

2 what is there?

3 A. We'll have to get the file, because it's
4 easier to show you than to remember it.

5 Q. Why don't you tell me what you brought with
6 you this morning?

7 A. (Witness hands folder to Mr. Yaninek.)

8 Q. And you handed me a blue file folder, sir.
9 What is that?

10 A. Inside is the items that you requested.

11 Q. Okay.

12 A. And the first is a list, computer printed
13 out, of all trials where I've testified. The second
14 is a computer printout of all depositions where I've
15 testified. The third is a current copy of my
16 Curriculum Vitae. That's what's here.

17 Q. All right.

18 MR. PENNINGTON: And the second blue
19 folder is the correspondence between plaintiffs'
20 counsel and Mr. Somerson with regard to his report.

21 MR. YANINEK: Okay.

22 MR. HAUCK: Do you have a second set of
23 that?

24 MR. PENNINGTON: I don't.

25 MR. YANINEK: These are all originals.



VARALLO Incorporated

1 Ira S. Somerson, CPP

2 MR. PENNINGTON: I mean, I'll provide it
3 to you.

4 THE WITNESS: You're at a home and I
5 have one of these (indicating), one at a time. So I
6 think we can work something a little easier out for
7 you.

8 BY MR. YANINEK:

9 Q. And this expandable brown folder,
10 Mr. Somerson?

11 MR. PENNINGTON: Just put this in here.

12 MR. YANINEK: I'm sorry.

13 THE WITNESS: That contains each of the
14 files I was sent to review and has been listed on my
15 report that you have seen, except for the last two
16 items, which came in since writing my report.

17 BY MR. YANINEK:

18 Q. What last two items were they?

19 A. Report of Rolle Enterprises, Inc. and the
20 deposition of --

21 MR. PENNINGTON: Carol Joerger.

22 THE WITNESS: -- Carol Joerger.

23 BY MR. YANINEK:

24 Q. You have with you a laptop computer in front
25 of you. What type of information relative to this



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1 Ira S. Somerson, CPP

2 case is stored on your computer?

3 A. Just what you have.

4 Q. Okay.

5 A. It's just an easier way for me instead --
6 because this table arrangement, I thought we'd find
7 it a little more compact if I -- but you will find
8 nothing on this computer that you don't have in
9 front of you.

10 Q. Okay.

11 A. I will make that guarantee to you.

12 Q. I asked in the Notice to be provided with
13 billing records. What folder would they be in?

14 A. The correspondence file between...

15 MR. PENNINGTON: It's that green sheet
16 of paper.

17 MR. YANINEK: Okay.

18 THE WITNESS: Which would be my diary.

19 MR. PENNINGTON: And there's also a
20 letter in there that indicates his fee rate. I
21 think it's right there, the agreement.

22 BY MR. YANINEK:

23 Q. Mr. Somerson, I'm holding what appears to be
24 like a green lined piece of paper. What is that?

25 A. This is my diary. That's how I refer to it



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1 Ira S. Somerson, CPP
2 as. Which has my client's name here, the date that
3 I received this assignment, the amount of the
4 retainer I received, my hourly rate for doing the
5 assignment, the first work that I did in my diary
6 and what it was that I did. And it's just a
7 listing.

8 Now, I have done some additional
9 follow-up work that I have not posted here yet,
10 simply because I'm a little bit out of the weather.
11 But I could, before today is over, finish that up
12 for you.

13 MR. HAUCK: Do you want to mark it?

14 MR. YANINEK: What's that?

15 MR. HAUCK: Do you want to mark it?

16 MR. YANINEK: Yes. I'd like to mark
17 this, I guess, as Somerson-2.

18 (Exhibit Somerson-2 marked for
19 identification.)

20 BY MR. YANINEK:

21 Q. Mr. Somerson, what I marked as Somerson
22 Exhibit-2, is that the green paper we were talking
23 about?

24 A. It's a column -- they're in a green column
25 notepad.



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1 Ira S. Somerson, CPP

2 Q. Then if I understand correctly, you were
3 retained to do work on this case September 3rd of
4 this year?

5 A. Yes.

6 Q. And the rate, your hourly rate, I guess, for
7 this work was to be \$225 an hour?

8 A. Yes.

9 Q. And you were paid a retainer of \$2,500 prior
10 to beginning any work on this case?

11 A. Yes.

12 Q. And I guess to the end of October anyway, it
13 appears that you've expended 17 and a quarter hours
14 on this case?

15 A. Correct. I have not posted November yet.

16 Q. Since this document, what additional hours
17 have you worked on this file?

18 A. These two additional documents that I pointed
19 to you earlier, some telephone communication with
20 Mr. Pennington concerning being here today, and
21 that's it.

22 Q. Approximately how much time do you think that
23 is, generally speaking?

24 A. It can't be more than two hours.

25 MR. HAUCK: Would you mind letting me



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1 Ira S. Somerson, CPP

2 look at Somerson-2?

3 BY MR. YANINEK:

4 Q. What I'd like to do is, basically, take a
5 break and kind of look over some of this stuff.

6 A. Sure.

7 Q. And then we'll go back on the record, and
8 I'll probably have a lot more questions for you at
9 that point.

10 (Short recess.)

11 BY MR. YANINEK:

12 Q. Mr. Somerson, your Curriculum Vitae indicates
13 after your name the initials BCFE. What do those
14 initials stand for?

15 A. Board-certified forensic examiner.

16 Q. What process did you have to go through to
17 become a board-certified forensic examiner?

18 A. Pay the dues, go through a peer review. My
19 primary reason for membership was to get the
20 information by mail and through membership and
21 attending various symposia that taught me how to be
22 a better witness. It did not have anything to do
23 with developing better security management skills.

24 Q. So that title or those credentials have
25 nothing to do with your expertise in security?



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1 Ira S. Somerson, CPP

2 A. Not at all. Well, other than as a witness.

3 Q. The other initials after your name is CPP.

4 What do those initials stand for?

5 A. Certified protection professional.

6 Q. And what does that mean?

7 A. That is a professional designation granted by
8 the American Society for Industrial Security, which
9 is an international organization of roughly 35,000
10 members. I was granted that in 1977 and have
11 recertified every three years by earning points, by
12 teaching, by writing, by attending seminars, et
13 cetera, since 1977.

14 Q. What are the requirements for the
15 certification?

16 A. Requirements are that the -- well, I came in
17 under the grandfather clause, because I was one of
18 the first 100 accepted. After that grandfather
19 clause, every three years I've been required the
20 same as everyone else, to take a peer review, et
21 cetera.

22 Q. What are the current requirements? You said
23 you were grandfathered in. What are the current
24 requirements for that certification?

25 A. Every three years you have to earn -- it's



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2 much like a CLE. You have to earn nine credits, and
3 those credits can be earned any number of different
4 ways in developing professional skills. They can be
5 through writing articles, they can be by attending
6 symposia, they can be by teaching, different
7 professional participation in the professional
8 society.

9 Q. Is that to retain it or become initially
10 certified?

11 A. To retain it.

12 Q. How now would someone be initially certified?
13 What process would they have to go through?

14 A. They would go through an application, which I
15 did, be peer reviewed, and then they would have to
16 take an examination to receive their first
17 certification process.

18 Q. What would the examination entail?

19 A. Very extensive, and I don't know, because I
20 never took it.

21 Q. It has on your Curriculum Vitae Loss
22 Management Consultants, Inc. Could you describe
23 what is the nature of business of Loss Management
24 Consultants, Inc.?

25 A. It is a corporation in the Commonwealth of



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1 Ira S. Somerson, CPP

2 Pennsylvania whose sole purpose is security,
3 management consultant or the protection of an
4 organization's assets by risk assessment and
5 programs designed to prevent those assets from being
6 lost.

7 Q. And who are the officers of the corporation?

8 A. I'm a one-man corporation.

9 Q. And where is your actual physical location?

10 A. 650 Sentry, S-E-N-T-R-Y, Parkway, Suite 1,
11 Blue Bell, Pennsylvania 19422.

12 Q. And is that an office, I assume, in an office
13 complex?

14 A. Yes.

15 Q. Do you have any employees?

16 A. None. That needs to be corrected, however.

17 I'm part of an international consortium of
18 independent consultants similar to myself, and we do
19 significant consulting work for multi-national
20 corporations and governments in different
21 specialties, and we come together as independents
22 and work on a task force.

23 We do not, each of us, retain employees.
24 We prefer to do it on the consortium level. That's
25 a major part of my work.



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1 Ira S. Somerson, CPP

2 Q. What percentage would you say that is of the
3 work that you do?

4 A. Well, it depends on whether you're talking
5 about time or dollars.

6 Q. Let's talk about time.

7 A. Time, I would say that it's 70 percent
8 consulting, 30 percent forensic or expert witness
9 work. Dollars, about 50/50.

10 Q. And what amount does your corporation make
11 yearly on the forensic work that it does?

12 A. Well, I usually do, as a one-man corporation,
13 about \$300,000 in generated fees a year, exclusive
14 of expenses. So based on those percentages, you
15 have a good idea as to what I'm doing.

16 Q. So just to understand better, you're a
17 corporation and forensic work alone will gross over
18 \$300,000 a year?

19 A. No, sir. My consulting and forensic work
20 will gross over 300. Roughly half of that will be
21 in the expert work.

22 Q. 150,000, generally?

23 A. It goes up and down. It's never the same.

24 Q. Right. And you've been doing forensic work
25 since 1983?



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1 Ira S. Somerson, CPP

2 A. I started in '81, really. That's when I sold
3 Century security systems to a national company. I
4 was under contract to them for two years, but during
5 that two years, they allowed me to do consulting.
6 By the way, when I sold it, I had 1100 employees.
7 So I was trying to get the other way quick.

8 Q. How old are you, sir?

9 A. 64.

10 Q. Sir, in your Curriculum Vitae, there's an
11 association affiliation called International
12 Association of Healthcare Security and Safety.
13 Could you describe that affiliation?

14 A. That's an international organization
15 representing people in the healthcare industry for
16 safety and security, of which I am a member, which I
17 participate at their symposia, which I write
18 articles to, which I lecture to and which I attend
19 the various workshops and symposia that they
20 sponsor.

21 I read their journal, their academic
22 journal that they publish quarterly, and I read
23 their magazines and newsletters as well. It's an
24 ability to stay in the state-of-the-art of hospital
25 security or healthcare security.



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1 Ira S. Somerson, CPP

2 Q. Essentially, if I understand, you probably
3 paid a fee to obtain that information, a membership
4 fee?

5 A. Well, just about any membership has a fee
6 associated with it, but my reward is far greater
7 than the fee paid.

8 Q. I understand.

9 And is the membership restricted to
10 anyone?

11 A. People who have a professional interest in
12 hospital security for both healthcare and security
13 in general in the hospital industry.

14 Q. But is it restricted? If I paid the fee,
15 could I become a member?

16 A. Well, there are different types of members.
17 I do not know what type of memberships they now
18 have. You might be an affiliate versus a full-time
19 member based on your qualifications. That, I'm not
20 familiar with. I was granted full membership.

21 Q. Have you ever worked in a healthcare security
22 setting?

23 A. As an employee?

24 Q. In any capacity.

25 A. As a consultant, many, many times.



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1 Ira S. Somerson, CPP

2 Q. What hospitals or healthcare facilities have
3 you worked for?

4 A. Well, without exaggeration, almost every one
5 of them has a confidentiality agreement. So the
6 ones that I'll give you, I'll be confident are old
7 enough and closed long enough that I don't have a
8 problem. I'm reading through a list of them now.

9 The first one that -- I'm just going
10 through a long list of them, if you'll be patient
11 with me, please.

12 Q. I'll be patient.

13 A. Aventis-Bioservices, which has clinics
14 throughout the country; Atlantacare, one word,
15 Medical Center in Lynn, Massachusetts.

16 Q. Is that a hospital?

17 A. Yes, it is.

18 Q. What type of work did you do for this
19 hospital in Massachusetts?

20 A. Full risk assessment and program development.

21 Q. And when did that occur, generally?

22 A. These are in alphabetical order, so...

23 They're not dated. I'm sorry.

24 MR. HAUCK: Could I jump in real quick?

25 Is what you're looking at on the



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1 Ira S. Somerson, CPP
2 computer screen in the documents that you've
3 provided?

4 MR. PENNINGTON: No. It was not asked
5 for.

6 THE WITNESS: No. This is just a list
7 of clients that I have in the computer. It's a
8 sampling, because I know it was going to be asked.

9 MR. PENNINGTON: It has nothing to do
10 with this case whatsoever.

11 THE WITNESS: But you asked me for some
12 references, so I just reached into the file to get
13 them for you. If you want me to stop, I'll be happy
14 to.

15 I've done work for the Family Planning
16 Council throughout this region; Mt. Sinai Hospital
17 Medical Center in Cleveland, Ohio. That was a full
18 risk assessment and program development. By
19 coincidence, the Mt. Sinai Hospital of Baltimore,
20 same thing; Pastore Merigo Kenault (ph), which was
21 basically a serum manufacturer that I dealt with;
22 Planned Parenthood of Chester County; Southwest
23 Missouri State University's hospital; Temple
24 University in Philadelphia's hospital.
25 BY MR. YANINEK:



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1 Ira S. Somerson, CPP

2 Q. What did you do for Temple?

3 A. Same thing.

4 Q. Full security risk assessment?

5 A. Yeah. Program development is how I prefer to
6 call it.

7 University of Pennsylvania, while we're
8 in Philadelphia, which I call HUP; Pennsylvania
9 Hospital, which is the same system, but it's at 8th
10 and Spruce. Then it was separate. There were two
11 different entities.

12 That's all I have in this partial list.
13 There are considerably more.

14 Q. Did any of these healthcare facilities do 302
15 commitments when you were doing the evaluation; do
16 you know?

17 A. I don't remember.

18 Q. Do you have any specific credentials in the
19 healthcare security field?

20 A. No. I am not a member of the IAHSS's
21 certification program. They've been perfectly
22 satisfied with my CPP.

23 The IAHSS deals more with people
24 employed by a hospital full time and seeks its
25 certification for personnel career development. But



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1 Ira S. Somerson, CPP

2 if you're looking for a broader perspective of
3 different medical facilities, CPP would be the
4 preferred designation.

5 Q. When you dealt with these assessments of
6 healthcare facilities, did you take into account any
7 reportings by the Joint Commission of Accreditation
8 of any of the facilities?

9 A. I'm familiar with them. I have some
10 ambivalent feelings about them, which you can get
11 into as we proceed.

12 But I approach all security management
13 for all facilities the same, whether it's a
14 hospital, whether it's a drug manufacturing
15 facility, a pharmaceutical, whether it's a clothing
16 or whatever it is. There's an essential way of
17 approaching security management consulting. We're
18 not driven by an accreditation service. Owners are
19 pretty much run by the association that's trying to
20 accredit them.

21 Q. And that's your feelings about the Joint
22 Commission?

23 A. That's correct. I approach my assignments
24 basically the same way, including this case; that
25 is, that I first assess through both scientific and



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1 Ira S. Somerson, CPP
2 qualitative or unscientific analysis what risks are
3 likely to occur -- and that will depend on the type
4 of facility -- identify and prioritize those risks,
5 assess the existing physical and academic and
6 procedural security that's in place to deter,
7 detect, deny and respond to those foreseeable
8 events, and to then recommend upgrades or
9 modifications to improve them from occurring.

10 I don't look at a hospital as being any
11 more unique than a manufacturing facility. That's
12 just a standard security industry methodology of
13 assessing risk and developing program strategy.

14 Q. What was the last hospital -- you don't have
15 to give me a name, but when did you do your last, I
16 guess, risk assessment of a hospital?

17 A. This past year.

18 Q. So based on your answer, your previous
19 answer, you don't feel that a hospital is any
20 different from any other business or institution
21 with regard to security assessment or risk or
22 practice and procedure?

23 A. No. That is a mistake. We approach the
24 methodology differently, only from the sense that
25 each type of operation is uniquely different.



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1 Ira S. Somerson, CPP

2 So, for instance, if I were to say to
3 you I'm assessing the risk of a convenience store,
4 you'll probably be looking at robbery prevention.
5 If I were to tell you I'm assessing the risks of a
6 department store, you would say, oh, he's after
7 shoplifting. And if I were to tell you -- each of
8 these have unique inherent risks, along with other
9 more peripheral risks.

10 And the same thing is true of a
11 hospital. We identify the inherent risks of its
12 operation, and we identify those through various
13 scientific and unscientific methodologies. We then
14 corroborate them with scientific methodologies. We
15 then look at where it's geographically located, what
16 are the demographics, both within it and surrounding
17 it. We look at its prior history and what the
18 repetitive, the persistent repetition of events was,
19 whether they appear to be mitigating that repetition
20 or it's going up on a grade.

21 We look at a lot of factors. And when
22 we're finished, whether, again, it's a hospital or
23 another organization, we use the same methodology,
24 but we've approached each for its unique operational
25 distinction. That's quite different than the way



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1 Ira S. Somerson, CPP

2 you...

3 Q. How do you view the differences between the
4 practice and procedure of security for a hospital
5 versus a different institution, such as a private
6 company?

7 A. Let's just say we're talking about a city
8 hospital, as an example.

9 Q. Sure.

10 A. That has a trauma center, that has an ER,
11 that accepts the public as part of its service to
12 the community and, therefore, it accepts young
13 people who are gang related or where retribution can
14 occur within the emergency room where, in certain
15 demographics, by the open nature of a hospital flow
16 into the facility. These create unique inherent
17 risks.

18 Each has to be looked at. Each has to
19 be addressed, especially based on where it is, what
20 its history is, whether it is a trauma center,
21 whether it isn't. Each unit has to be looked at
22 that way. And when you have, you then say, okay,
23 what are we doing to -- these words will be
24 repeated. I hope you won't get angry with me -- to
25 deter, to deny, to detect and to respond to and/or



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1 Ira S. Somerson, CPP
2 recover from these foreseeable risks.

3 Now, some are more obvious and are
4 prioritized high. Violence in the ER is a very --
5 very major problem in a downtown trauma center.

6 So you have to look at each risk and
7 then assess what you're doing to prevent it.

8 I hope I haven't been verbose.

9 Q. No. That's fine. I asked you a question.
10 You're entitled to answer it.

11 In your articles and publications, I
12 direct your attention to No. 35. It's titled Role
13 of Outside Consultants in Enhancing a Hospital
14 Security Program. Can you tell me about that?

15 A. I'm getting it up on my screen. I did not
16 predict you to be asking me about that.

17 I apologize for the slight delay.

18 Q. No problem.

19 A. There it is. Thank you for your patience.

20 What page did you want?

21 Q. It was Page 5 on your Curriculum Vitae, but
22 it was Article No. 35. It's titled Role of Outside
23 Consultants in Enhancing a Hospital Security
24 Program.

25 A. Got it.



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2 Q. Could you tell me what that article is about?

3 A. Essentially, that article is about how you
4 would use a consultant as part of the process or the
5 facilitation process of assessing risks and
6 improving the program.

7 Very often security directors in
8 hospitals and security managers are part of the
9 squeaky wheel. They're always asking for things.
10 They're always under budget constraints, and,
11 therefore, the outside consultant can often get them
12 over the hump and into other areas if they use an
13 outside consultant. That's the main thrust of that
14 article.

15 Q. So is it fair to say that there's nothing in
16 the article related to elopements?

17 A. No. I don't think I've ever written anything
18 specifically on the subject of -- my writing is
19 generally more security management genericized.
20 It's intended for students. It's intended for
21 theory that would apply against multi-types of
22 facilities, not a particular facility.

23 Q. Okay. After the deposition is completed,
24 would it be possible that I get a copy of this
25 article?



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2 A. Oh, that would be easy. I just print it out
3 on the computer.

4 Q. Thank you very much.

5 A. You just want that one article?

6 Q. Yes, sir.

7 A. Oh, yeah, I can find it. I'll put a double
8 asterisk after it so I can find it. I'm assuming,
9 by the way, that I'm getting permission from
10 Mr. Pennington for each of these requests?

11 MR. PENNINGTON: Yes. Sure.

12 BY MR. YANINEK:

13 Q. I see another initial after your name, CFE.

14 A. That has been dropped.

15 Q. Okay.

16 A. The reason it's been dropped is, I no
17 longer -- and I was for, God, 40 years a criminal
18 investigator. I got licensed in the Commonwealth of
19 Pennsylvania. I just, frankly, got too old and too
20 busy.

21 Q. So CFE stands for what?

22 A. Certified fraud examiner. I just stopped
23 doing it and felt that it was misrepresentative to
24 use it, so I dropped it.

25 Q. What does a certified fraud examiner do?



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2 A. Investigates frauds.

3 Q. What type of frauds?

4 A. You name it. Mostly for corporations. You
5 take the largest one we now have been dealing with,
6 I would have been part of that.

7 Q. I want to talk about now turning your
8 attention to the list that you provided me with
9 cases that you've had involvement with, other
10 forensic cases.

11 A. Yeah.

12 Q. I have one dated October 28th, 2002.

13 A. Do you want to just show it to me? It's the
14 only copy.

15 Q. You can kind of see it up in the right-hand
16 corner.

17 A. I'm sorry. Which one are you referring to?

18 Q. No; the date of your list.

19 A. Right. Oh, okay.

20 Q. Mine is dated 10/28/2002. That's when you
21 printed it off, I assume?

22 A. Yes.

23 Q. The one we have today is dated 11/21/2002.

24 A. Correct.

25 Q. Is there any changes, in your mind? Have you



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2 had any depositions or trials, I guess, since
3 October 28th that would be reflected on the 11/21
4 list that you gave me that are not reflected on the
5 older list?

6 A. Maybe one or two, but nothing that would, I
7 think, interest you.

8 Q. Okay. What are the new ones?

9 A. Just depositions in other matters. It's a
10 continuing. When somebody deposes me, I just go in
11 and put yes and the date, and that updates the
12 database. If I'm at trial, I put in yes and the
13 date, and it updates the database. Then when I
14 do -- it just prints out the new number. And you're
15 welcome to have that new print, but I don't think
16 you'll need to go through the trouble, because none
17 of them involve your kind of work. I'll aver to
18 that.

19 Q. I'm going to direct your attention to, I
20 guess it's, LMC File 7661. I believe the caption is
21 titled Robb R. Wilson and Lora W. Wilson versus
22 Children's Hospital, et al.

23 A. You want me to pull that up?

24 Q. Yes. Well, can you tell me what that case is
25 about?



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2 A. No.

3 Q. All right.

4 A. But I can -- thanks to my great cheat sheet
5 here, I can probably -- if it's not closed and it's
6 not down in the dungeon, I can look it up in the
7 computer. If it's down in the dungeon, I need you.

8 Q. Okay. Take your time.

9 A. I'm going to see -- file number, please?

10 Q. I believe it's 7661.

11 A. We're in luck. Okay. Reading you the
12 incident in summary, "Among the day August 18th,
13 1997, Steven Maloney, plaintiff, was a ticket-paying
14 fan at a baseball game between the Philadelphia
15 Phillies and the San Francisco Giants," and it goes
16 on to how he was assaulted while being at that game.

17 Q. Okay. So this was not an incident that
18 obviously occurred at the hospital?

19 A. He might have been taken to the hospital. He
20 might have received treatment at the game, but it
21 certainly wouldn't have been my keyword index
22 choice.

23 Q. All right. In your recollection of cases
24 that you've been involved with, either these in the
25 printouts that you provided me or other ones, have



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2 you ever had a case involving security issues at a
3 hospital?

4 A. Yes.

5 Q. Can you tell me, one case or more than one
6 case?

7 A. More than one case, and I could never do that
8 now. I would have to do that research and come back
9 to you. And if you would, please, put that in
10 writing, because somebody has to --

11 MR. PENNINGTON: We'll take care of that
12 stuff at the end.

13 MR. YANINEK: Okay.

14 THE WITNESS: Somebody is going to have
15 to pay for that. That's deep research. Somebody
16 would pay for that.

17 BY MR. YANINEK:

18 Q. I guess on this list, on this list that you
19 provided, were any of these hospital cases?

20 A. I don't remember.

21 Q. Or healthcare cases?

22 A. They would be part of the research I would
23 do.

24 You have to remember that since 1981,
25 I've handled, roughly, 700 matters. That's just



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2 since '81. And I've been in business for 43 years.
3 And I have every file in those 43 years, but I don't
4 have them all in a database. So the research gets
5 into, you know, going beyond the database. And
6 basically what I do is, I load them in and I put
7 various keywords to them.

8 Now, many, many times lawyers never tell
9 me they settle a case. Wow. You believe that?
10 Many times lawyers don't tell me information that
11 gives me the ability to change the database
12 appropriately. So I would have to literally, once I
13 saw the list, call every lawyer to find out the
14 current status of that case. Usually I send out
15 letters. I do that once a year as it is and get
16 maybe a 30 percent response, just so I can keep my
17 inventory.

18 Q. From the list that you provided me, it
19 indicates that you haven't testified in trial this
20 year. Is that accurate?

21 A. I think I have. Now, may I -- hold on,
22 please. I think I can probably help you with that.

23 Q. Oh, I want to correct my question. I think
24 from my list to the new list, there appears to be
25 one that you testified on November 18th?



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2 A. Yeah. I thought there was one. That's why
3 I've been hesitant.

4 Q. November 18th.

5 A. I can tell you exactly based on just sorting
6 this, if you just give me one second.

7 Okay. I testified -- I was deposed on
8 11/12 in a parking lot case, and that was for
9 Harrah's.

10 Q. This is Estate of Selvaggio versus Harrah's?

11 A. Correct. Ugly case.

12 Q. I assume you were retained by the plaintiff,
13 according to your record?

14 A. Yes. This was not a criminal case.

15 Q. And the incident occurred, I would assume, at
16 Harrah's or on their premises?

17 A. On their employee parking lot.

18 Q. And was Mr. Selvaggio killed as a result of
19 the incident?

20 A. Ms. Selvaggio was killed by her boyfriend.

21 Q. How was she killed?

22 A. With a shotgun.

23 Q. She was shot by her boyfriend?

24 A. Her boyfriend. He was annoyed.

25 Q. And you were retained by the estate to review



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2 the case?

3 A. I was basically retained to defend the
4 casino.

5 Q. In your column, then, under Plaintiff, it
6 says yes. What does that mean on your printout?

7 A. Going back to it. I apologize to you. I did
8 represent the Estate of Peggy Selvaggio against -- I
9 do remember the case exactly. The security officer
10 left the parking lot without authorization.
11 Boyfriend got on the lot, which he otherwise
12 wouldn't have, and shot Peggy Selvaggio. I
13 represented Peggy Selvaggio's estate.

14 Q. And you testified then that the security at
15 Harrah's was inadequate?

16 A. In that instance, yes.

17 Q. Was a verdict reached in the case?

18 A. I don't know.

19 Q. And that case was in New Jersey, I take it,
20 Atlantic City?

21 A. Yes.

22 Q. The next most recent case you testified at
23 trial --

24 A. To help you along, 8/25/2000.

25 Q. How about 10/24/2001, Samuel Stoorman,



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2 Page --

3 A. Yes.

4 Q. And you were retained by plaintiff in that
5 case?

6 A. Yup.

7 Q. And this was in Colorado?

8 A. Correct.

9 Q. And what, generally, was this case about?

10 A. I don't remember. I right now have about 130
11 open files. The rest of the, roughly, 700 are
12 closed. That's physically impossible to remember
13 the -- but as I said, any specific question you ask,
14 I will see that you get an answer through
15 Mr. Pennington to your office.

16 Q. Well, you have a computer in front of you.
17 Do you have any information relative to this case on
18 your computer?

19 A. Only if the case was still open. If not, all
20 the file drawers were destroyed and only my
21 correspondence files are left open. Nothing would
22 be on the computer, because it would be removed.

23 Q. Is it an open case or a closed case?

24 A. Which one, the Stoorman case?

25 Q. Yes.



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2 A. Do you have a file number? It's on the very
3 end.

4 Q. It appears to be 7835.

5 A. Closed.

6 Q. So what you're telling me, as we sit here
7 today, there's nothing you can tell me about this
8 case from your computer that's in front of you about
9 the relative nature of what this case is about?

10 A. Only my keyword index, which is at the very
11 end of the same file, and they'll tell you,
12 essentially, what the matter was about.

13 It was a clinic, social services
14 abortion, and a rifle -- if that's the same one.
15 No, I don't think it is. I think I got carried
16 away. Just a moment.

17 Q. No problem.

18 A. Office building tenant, assault, blunt object
19 to head, burglary. Meaning that a burglary took
20 place and the person in the building was assaulted
21 during the burglary with a blunt object. If that
22 person had died, there would be the word "homicide"
23 as well.

24 Q. Okay. So since you testified at trial in
25 that case, I assume that you gave an opinion that



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2 the security at the building was inadequate?

3 A. Yes.

4 Q. And were you at the trial in Colorado to the
5 end of the trial or just for your testimony?

6 A. For one day, just for my testimony.

7 Q. You don't know the result of the trial?

8 A. I don't know why, but I remember a favorable
9 result. And I may have to retract that, but I do
10 remember getting a nice phone call.

11 Q. Okay.

12 A. Rare.

13 Q. Nice phone call from the plaintiff's lawyer?

14 A. Whoever it was that I represented.

15 Q. The next trial testimony listed on your
16 printout is Thomas J. Duffy --

17 A. If you give me a file number.

18 Q. 7366. The Curtis Center, and then the
19 caption says Hoffman Surgical. Sorry. No; that's
20 right. That's right.

21 A. And the file number was?

22 Q. 7366.

23 A. The attorney was a Thomas Duffy?

24 Q. Yes, sir.

25 A. I'll just go through that.



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2 File is closed.

3 Q. Okay.

4 A. It was received by me in 1990, a Pennsylvania
5 matter. Hoffman Surgical was the caption. That's
6 all I had.

7 Q. Okay.

8 A. Oh, this took place at the Spring Mill
9 Associates right down the street here in
10 Conshohocken. The cross index is fire, security
11 officer services, guard services, warehouse, alarm,
12 security system.

13 So this was, obviously, a fire case.

14 Q. Okay. So in that case, did you render an
15 opinion that the, I guess, building security was
16 inadequate?

17 A. I have no idea if I did render an opinion.
18 I'd have to go back and research every one of these.

19 Q. All right.

20 A. Most of these, for your information, settle
21 long before I render an opinion.

22 Q. Well --

23 A. Which is why I'm retained in the first place.

24 Q. Well, I'm specifically questioning you about
25 cases that you've testified at trial. I'm taking



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2 your trial list, so these -- I understand that,
3 being an attorney myself.

4 A. Then I did, and I don't know what opinion I
5 rendered. I do have --

6 Q. You tend to remember those a little bit more.
7 Would you agree or not?

8 A. Not anymore. That's a long time ago.

9 Q. Generally speaking, the times that you
10 testify at trial?

11 A. You list the file numbers that you want me to
12 try and find. I have to go into my closet and pull
13 out them and get them copied for you, but I don't
14 remember them.

15 Q. Okay.

16 A. And that's not evasive. I really just don't
17 remember them.

18 Q. Let's see if you have anything on 7785. The
19 caption is entitled Gonzalez versus Community Realty
20 Management, et al.

21 A. What's my file number, please?

22 Q. 7785.

23 A. That was for Joe Assan, I would pronounce his
24 name.

25 Q. Yes.



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2 A. It's still open. So I would not be able to
3 discuss the file at all. Not without Joe Assan's
4 permission.

5 I remember this case quite well.

6 Q. All right. Without, I think, specific about
7 the file, do you know, was this in New Jersey State
8 or Federal Court?

9 A. Atlantic City.

10 Q. I see.

11 A. On a housing project.

12 Q. It's a State Court case?

13 A. HUD, I think.

14 Q. The next most recent case, according to your
15 list, is 7757, Lamana versus Ogden.

16 A. 7757?

17 Q. Yes, sir.

18 A. It's still open. Same would apply. I have
19 no...

20 Q. All right.

21 A. This may very well be closed. I haven't
22 heard from it in that long. But this says open, so
23 I can't discuss it.

24 Q. All right. The next most recent -- this is
25 an interesting one, I guess. 7767.



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2 A. That sounds very familiar.

3 Q. This case, it appears, you weren't retained
4 by either plaintiff or defendant.

5 A. Oh, that's true.

6 Yeah. This is closed. This is two twin
7 tower condominiums bickering with each other, two
8 management associations, on a budgetary dispute over
9 security.

10 Q. Okay.

11 A. If you want the truth, two immature Board
12 screaming at each other.

13 Q. Here's another one from 2000. 7731. It's
14 called Zepf versus Atlantic City Hilton.

15 A. That rings a bell. What's the number again?

16 Q. 7731.

17 A. That's open. This case involves an Atlantic
18 City casino. You're picking on them.

19 Q. And you testified at trial on behalf of the
20 plaintiff, it appears, from your list anyway?

21 A. Well, if it says I did, then I did. But,
22 again, did it close, did it settle, where is it?
23 They haven't told me.

24 Q. What you testified in at trial certainly was
25 public record and open to the public. I'm not



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2 asking you for what confidential information that
3 you may have given to the attorney. , What my
4 question is, do you remember what you testified at
5 trial?

6 A. No.

7 Q. Let's see if you have any information on
8 7641, Checkpoint Systems, Inc.

9 A. 7741? Oh, I remember this.

10 Q. 7641.

11 A. Checkpoint systems would have been a patent
12 infringement case involving Checkpoint, one word,
13 and Check Point, two words, the invasion of the use
14 of the name. It really didn't have anything to do
15 with security as per se.

16 Q. Okay.

17 A. But any knowledge of the security industry
18 and the access control industry. That was a very
19 interesting case.

20 Q. 7697, Meyers versus Joe Schmidt, trading as
21 7-Eleven.

22 A. Seven what?

23 Q. It's 7697.

24 A. It's closed. I remember it well. There was
25 a sister to this one. Same property, too.



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2 Q. What was the general nature of that case?

3 A. I'm getting it for you.

4 Q. Okay.

5 A. Assaults, banging each other up on a parking
6 lot outside 7-Eleven. It seems to be a part-time
7 hobby of young people today.

8 Q. Okay. And you testified on behalf of the
9 plaintiff, Alan Meyers?

10 A. Yes.

11 Q. I assume he was assaulted then on the
12 7-Eleven parking lot?

13 A. Correct.

14 Q. And was your testimony that the security at
15 the 7-Eleven parking lot was inadequate?

16 A. Yes.

17 Q. Here's one, 7709. This is in Wyoming, of all
18 places.

19 A. I'm all over the lot.

20 Oh, this was for the guy on TV that
21 wears the --

22 Q. Jerry Spence?

23 A. Yeah. That's his brother. Fascinating firm.

24 Q. This is a criminal case?

25 A. Yeah. Out in Wyoming. Lee versus State of



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2 California. It was a crowd control case at a state
3 fair.

4 Q. And you testified on behalf of the plaintiff?

5 A. Well, you have the whole spreadsheet. I have
6 to go back and forth. So, yes, I did.

7 Q. And was your testimony that the crowd control
8 at the fair was inadequate?

9 A. Yes. Boy, was it ever.

10 Q. Let's go to 7757. Did I ask you about that
11 one?

12 A. Don't know.

13 Q. I don't think so. Maybe I did.

14 A. That's still open.

15 Q. Okay.

16 A. I can only tell you that it involved a guard
17 service. Let me go back and tell you, this is for
18 the plaintiff. You probably know --

19 Q. According to your printout, it says you
20 testified for the plaintiff.

21 A. Okay. Because I don't have the whole...

22 Security officer services,
23 transportation, assault, fist, guard, Port
24 Authority, airport, Newark Airport. That's the
25 various...



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2 Q. I would assume that the security at Newark
3 Airport was at issue in the case?

4 A. Yes.

5 Q. You testified that security at Newark Airport
6 was inadequate on that occasion involving --

7 A. On that occasion? When wasn't it? Yes.

8 Q. Okay. Let's look at if you have 7700.

9 A. That's a closed matter.

10 Q. Okay. You were retained by the defense,
11 according to your paper?

12 A. Back in '98.

13 Q. What was the general nature of that?

14 A. Massachusetts. I have to get it for you.

15 It's an oldie. Oh, you remember the
16 case where the murder that took place in Boston over
17 the abortions? They came into the abortion clinic
18 and blew away some of the employees in there?

19 Q. Vaguely.

20 A. It was one of those. Nasty case.

21 Q. So did you testify then on behalf of the
22 clinic?

23 A. No. Defendant.

24 Q. The defendant, wouldn't that be the clinic?

25 A. The clinic.



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2 Q. Okay. So was your testimony such that you
3 opined that the clinic's security was adequate?

4 A. I don't remember exactly what I opined. I
5 wouldn't want to mislead you, but I did opine
6 something.

7 Q. Favorable to the --

8 A. That's up to their own...

9 Q. Here's one, 7259, Capizzi versus Gimbels.

10 A. There it is. Closed. Philadelphia case,
11 Capizzi versus Gimbels, like you said. For the
12 plaintiff. It was a robbery in a department store
13 mall, armored car service.

14 Q. And the plaintiff was injured, I assume, in
15 some way personally?

16 A. Shot, yes.

17 Q. And do you remember what your opinion was?

18 A. No.

19 Q. Do you remember anything related to what you
20 testified?

21 A. No. I'd be quite a remarkable guy if I did
22 after all these.

23 Q. 7708.

24 A. Closed. Attorney was Thomas R. Yorko,
25 Pennsylvania. By the way, I have no idea if these



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2 law firms exist today.

3 Q. No. I understand that.

4 A. Some of this is quite old.

5 Q. Do you remember what that case was about?

6 A. Well, if it doesn't trigger it from the
7 keyword, no.

8 Q. Okay.

9 A. I did work for plaintiff on this. It was a
10 property management case, purse snatched, strong-arm
11 robbery, parking lot of a strip center, and it went
12 to an arbitration.

13 Q. So do you remember if you testified that the
14 strip mall in question had inadequate security?

15 A. I don't remember a thing.

16 Q. Okay.

17 A. How many more of these are we going to be
18 going through? Because I want to try and just --

19 Q. Just a couple more.

20 A. As many as you wish. I just want to get
21 these things set up.

22 Q. I understand.

23 How about 7597?

24 A. Open. State of New Jersey. It's against the
25 casino. Represented plaintiff, and it was an



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